

**TOWN AND COUNTRY PLANNING (DEVELOPMENT MANAGEMENT
PROCEDURE) (ENGLAND) ORDER 2015**

TOWN AND COUNTRY PLANNING GENERAL REGULATIONS 1992

**TOWN AND COUNTRY (ENVIRONMENTAL IMPACT ASSESSMENT)
REGULATIONS 2017**

APPLICATION REF NO.: 8/22/00559/CTY

BY OR ON BEHALF OF: Nottinghamshire County Council

DEVELOPMENT: Enlargement of junction with associated ancillary landscaping and improvements to pedestrian and equestrian crossing facilities

LOCATION: Kirk Hill junction, Intersection of Kirk Hill/A6097, East Bridgford, Nottinghamshire

Following consideration of an application for the above development as shown on the submitted plans, NOTTINGHAMSHIRE COUNTY COUNCIL, in pursuance of their powers under the above Act, hereby

GRANT PLANNING PERMISSION

for the development in accordance with the application, subject to compliance with the attached conditions and for the following reasons.

Failure to comply with the terms of this permission may render the development unlawful.

Date of decision: 29/09/2022



Authorised to sign on behalf of the County Council

APPLICATION REF NO. 8/22/00559/CTY

Applicants should note that there is no right of appeal for Regulation 3 applications under Section 78 of the Town and Country Planning Act 1990.

The validity of this decision may be challenged by persons with sufficient interest through a claim for judicial review. Any such claim must be filed with the Administrative Court promptly and in any event not later than three months after the date of the decision. Such claims can be costly and should be pursued as a last resort after all other action has been exhausted. You would be advised to seek professional legal advice before pursuing a claim for judicial review. The full procedures governing the making of such a claim are set out in the Civil Procedure Rules Part 54.

STATEMENT OF THE MAIN REASONS AND CONSIDERATIONS ON WHICH THE DECISION IS BASED

The decision notice read as a whole meets the requirements of Regulation 30 (1) (d) of the Town and Country Planning (Environmental Impact Assessment) Regulations 2017. With respect to Parts (i) to (iii):

1. Whilst improvements to this junction have not been identified as an infrastructure planning requirement through the Local Plan process, the need to add junction capacity has emerged subsequently in order to address current congestion issues and to cater for expected background traffic growth, including from the nearby strategic developments at Newton and Bingham. The developer of the former is subject to a planning obligation requiring the junction to be upgraded and would now provide a financial contribution towards the current plans. There is support from NCC Highways and National Highways and the added capacity would ensure the A6097 functions as an effective part of the Major Road Network. A moderate to strong degree of supportive weight should be afforded to the proposals.
2. Whilst these are essentially road based proposals there would also be notable additional benefits for non-motorised users, especially local equestrians, through the provision of a relocated bridleway running alongside Kirk Hill, and a full Pegasus crossing over the A6097 to the south east of the junction with a new bridlepath back to East Bridgford Road. Together these aspects would improve safety and enhance the rights of way network and this would be a moderate additional public benefit of the proposed development.
3. The application is supported by a comprehensive Environmental Statement based upon a prior Scoping Opinion. Other than construction impacts, no significant permanent effects are anticipated to matters including to ecology, landscape and views, noise/vibration, air quality, flooding/drainage, geology and water resources, local heritage, or to the climate. No significant cumulative or combined effects have been found. There are no objections from any consultees and the comments and requests that have been received from the community have been responded to. Pre-application community consultation has also been carried out.
4. The proposals, following amendments, would also now provide a very small enhancement/net gain for biodiversity on site of 0.13% for habitats, and 11.20% for hedgerows and which is a minor additional benefit.
5. Weighing against the proposals would be the short to medium term harm to the character and appearance of the Conservation Area, resulting from the removal of the mature outgrown hedge and trees along Kirk Hill which is currently a positive landscape feature at the entrance to the CA. Similarly this would be a negative visual impact at least until replacement planting has had time to take effect. Whilst this may neutralise the landscape impact, the visual impact and harm to the CA may not be fully neutralised and some harm could remain as a result of the widening of this part of Kirk Hill. Any such residual harm is considered to be clearly less than substantial and outweighed by the wider public benefits that the scheme would provide.
6. Temporary effects from construction including noise/vibration, dust, potential pollution, landscape and visual disruptions are all considered to be controllable to acceptable levels including through the use of a construction management plan secured by planning

condition. Such disruption should afford a slight degree of adverse weight in the planning balance rather than the significant and moderate adverse effect findings in the context of the applicant's assessment. GHG emissions stemming from construction are also considered slight. The permanent loss of BMV agricultural land is also slight.

7. On balance it is considered that whilst certain individual policies are less than supportive (CS policies 3, 14, 15 and 16), there is no conflict with the Development Plan taken as a whole and that there are material considerations which justify the capacity improvements to this junction and that the resulting benefits to the travelling public and local recreational users prevail and would outweigh the identified harms. The proposals can be considered as sustainable and can be supported subject to planning conditions. The proposed development complies with the majority of the local planning policies and national planning policy and in particular Core Policies 2, 10, 11, and 17 of the Rushcliffe Core Strategy and policies 1, 17, 18, 20, 21, 28, 29, 37, 38 and 40 of the Land and Planning Policies Document. In this situation CS Policy 1 and the NPPF directs that planning permission should be granted.

STATEMENT OF POSITIVE AND PROACTIVE ENGAGEMENT

In determining this application the County Planning Authority has worked positively and proactively with the applicant by entering into pre-application discussions and the scoping of the application. The proposals and the content of the Environmental Statement have been assessed against relevant Development Plan policies, the National Planning Policy Framework, including the accompanying technical guidance and European Regulations. The County Planning Authority has identified all material considerations; forwarded consultation responses that may have been received in a timely manner; considered any valid representations received; liaised with consultees to resolve issues and progressed towards a timely determination of the application. Issues of concern have been addressed through acceptable amendments to the proposals along with the recommended planning conditions, which the applicant has been given advance sight of. This approach has been in accordance with the requirement set out in the National Planning Policy Framework.

SCHEDULE OF CONDITIONS AND REASONS

Commencement and notification

1. The development hereby permitted shall be begun within 5 years from the date of this permission.

Reason: To comply with the requirements of Section 91 (as amended) of the Town and Country Planning Act 1990 and to allow sufficient time for the development to be delivered alongside the other junction improvements along the A614/A6097 corridor.

2. The County Planning Authority (CPA) shall be notified in writing of the date of commencement at least 7 days, but not more than 14 days, prior to the commencement of the development hereby permitted.

Reason: To assist with the monitoring of the conditions attached to the planning permission and for the avoidance of doubt.

Approved Plans

3. Unless otherwise required pursuant to conditions of this permission, the development hereby permitted shall be carried out in accordance with the submitted application (as amended), documents and recommendations of reports, and the following plans (received by the CPA on 28/02/2022 unless otherwise stated)
- (a) Dwg 20949/LLO/KH007/00003 – P12 General Arrangement & Red Line Boundary For Planning – received by the CPA on 10/08/2022;
 - (b) Dwg 20949/SRO/KH007/00003 – P1 Detailed Engineering Drawing with Red Line Boundary – received by the CPA on 10/08/2022;
 - (c) Dwg 20249/ELS/KH007/00001 Rev A- Vegetation Clearance Drawing – received by the CPA on 04/08/2022 (but subject to conditions below);
 - (d) Dwg 20249/ELS/KH007/00002 Rev D- Landscape Design Proposals received by the CPA on 04/08/2022 (but subject to conditions below);
 - (e) Dwg 20249/ELS/KH007/00003 - Landscape Design Typical Cross Section (but subject to conditions below) received by the CPA on 28 February 2022;
 - (f) Dwg 20949/HDG/KH001/SK/00001 P03 - Proposed Drainage Incl Culverting received by the CPA on 28 February 2022;
 - (g) Dwg 20949/HDG/KH001/SK/00002 P03 - Proposed Drainage Catchment Areas received by the CPA on 28 February 2022;
 - (h) Dwg 20949/HLG/KH001/P-LUX/01 P01 - Street Lighting Lux Contour Levels received by the CPA on 28 February 2022;
 - (i) Dwg 20949/LLO/KH007/00002 P06- Land Affected Blue and Pink Areas received by the CPA on 28 February 2022.

Reason: For the avoidance of doubt as to the development that is permitted.

Archaeology

4. No development hereby permitted shall take place until an archaeological Written Scheme of Investigation has been submitted to and approved in writing by the CPA. The scheme shall include a mitigation strategy with arrangements for recording and reporting any finds, and/or the preservation of remains in situ, (including timetables for works and using competent persons), and for the subsequent analysis and publication of the findings, with a copy of the final report submitted to the CPA for its written approval within six months of the work, or to a timetable as otherwise agreed in writing with the CPA. The development, along with all archaeological site work, shall be implemented in full accordance with the approved scheme.

Reason: Details are required to be submitted prior to the commencement of the development to provide an appropriate scheme of archaeological mitigation and so to advance the understanding of the significance of any heritage assets to be lost as part of the development in accordance with the National Planning Policy Framework.

Noise survey

5. Prior to the commencement of construction, a baseline noise survey shall be undertaken and submitted to the CPA for its approval in writing to record the pre-existing noise levels at a range of nearby noise sensitive receptors previously agreed in writing with the CPA. It is recommended that baseline noise surveys are undertaken as close as possible to the commencement of the construction phase to ensure as near 'normal' post pandemic pre-existing baseline noise levels are recorded.

Reason: Details are required prior to the commencement of the development to inform the management of construction works and to validate the noise assessment work.

Ground investigations

6. No development approved by this planning permission shall be commenced until:
- (a) a site investigation and risk assessment recommended in the submitted Phase 1 – Geo-Environmental Desk Top Study has been completed and approved in writing by the CPA. The site investigation report shall include a review of the Phase 1 desk study information to account for any changes to the red line boundary.
 - (b) If contamination is identified by the site investigation and risk assessment submitted under (a), a Method Statement detailing the remediation requirements, including measures to minimise the impact on ground and surface waters and on the proposed land use, using the information obtained from the site investigation, shall be submitted to the CPA and approved in writing by the CPA prior to that remediation being carried out on the site.

Prior to commencement of the main site works, the approved remediation works shall be completed in accordance with the Method Statement approved in compliance with (b) to the satisfaction of the CPA.

Prior to the development hereby approved first being brought into use:

A validation report including evidence of post remediation sampling and monitoring results, to demonstrate that the required remediation approved under (b) has been fully met shall be submitted to and approved in writing by the CPA;

Reason: Further site investigation is required prior to the commencement of the development to ensure that the site is suitable for use and to ensure that the development does not pose an unacceptable risk to human health and the local environment.

7. Prior to the commencement of development, a watching brief to deal with contamination which may be encountered shall be submitted to and approved in writing by the CPA. Development shall be carried out in accordance with the approved details. If during construction, contamination not previously identified is found to be present, no further works shall be carried out in the area identified, unless first agreed in writing by the CPA, until a remediation strategy to deal with the identified contamination (including validation that contamination has been satisfactorily remediated) has been submitted to and approved in writing by the CPA. Works shall be carried out in accordance with the approved details.

Reason: Details are required to be submitted prior to the commencement of development to provide an appropriate methodology that will ensure that risks of site contamination are properly identified and addressed.

8. The CPA shall be notified in writing within 7 days of the date of the completion of the development. Within two months of the completion of development, a validation report to confirm an absence of contaminants notified to the CPA in compliance with Condition 7 shall be submitted to and approved in writing by the CPA.

Reason: To ensure that the site is left in a satisfactory condition and does not pose a risk to human health and the environment.

Construction Management

9. No part of the development hereby permitted shall commence until a Construction and Environment Management Plan (CEMP) has first been submitted to and has been approved in writing by the CPA. The CEMP shall specify details of the following:

An ecology component comprising:

- (a) The implementation of the recommendations as set out in section 8.6 of the Environmental Statement;
- (b) Measures, including fencing, to clearly demark the boundary of works and to prevent accidental ingress into habitats/designated sites;
- (c) Good practice construction methods including advising all workers of the potential for protected species (and if protected species are found, work should cease until a suitable qualified ecologist has been consulted) and measures to protect any mammals which may stray into working areas, including the use of ramps in any deep excavations and capping off of pipes over 200mm in diameter;
- (d) Measures to protect existing trees and hedges;
- (e) Work impacting on vegetation used by nesting birds should avoid the active bird nesting season (March to August inclusive), but if this is not possible details of how the impacted area would first be searched by a suitably competent person and any follow up measures shall be set out;
- (f) The undertaking of an updated ecological survey if works have not commenced by April 2023 and every subsequent 2 years if works have not commenced.

A local amenity component comprising:

- (g) details of lorry routeing for construction traffic;
- (h) segregation of pedestrian and vehicular movements on the site;
- (i) measures of Best Practicable Means to control noise and vibration, (including the use of localised temporary screening as may be necessary for the protection of nearby properties), and the procedure to be followed in the event of a complaint;
- (j) An outline strategy for communication and liaison with the public and local Parish Councils;

- (k) details of the proposed construction working hours including any necessary night time working requirements (which should generally be minimised), along with any additional mitigation measures to be employed;
- (l) dust mitigation measures to be put in place during the construction works;
- (m) details of mitigation measures to protect nearby properties from glare and obtrusive light from any lighting required during the construction works.

A pollution prevention component with:

- (n) pollution control measures to prevent mud or contaminated materials from being tracked, spilled or blown off-site;
- (o) aquifer protection measures during the construction work, if required;
- (p) temporary surface water management measures;
- (q) measures to securely store fuels, oils, chemicals or other hazardous materials and the means to remediate any spills.

A soils, materials and waste management component with:

- (r) the segregation of waste materials into different streams for recycling or disposal. This should include measures to handle potentially contaminated arisings and groundwater;
- (s) A soil management strategy to minimise impacts on agricultural soils and to preserve soil quality, through its handling and storage and to identify reuse opportunities for surplus soils putting them to best use reflective of their identified quality.

All construction shall be undertaken in accordance with the approved details.

Reason: Details are required to be submitted prior to the commencement of the development in the interests of mitigating the effects of construction upon the local environment, local amenity, agricultural soils, and for reasons of highway safety.

Compound and storage areas

10. No development approved by this planning permission shall be commenced until the details for contractors' compounds, storage areas and access routes has first be submitted to the CPA for its written approval. Details shall include;
- (a) the size and location of the works compound(s);
 - (b) the layout and positioning of any temporary buildings/cabins, soil stores, (including heights), and any external lighting;
 - (c) the location(s) and means of access;
 - (d) provision for contractors' parking;

- (e) temporary means of enclosure of the site operational boundaries or site screening as may be required,
- (f) measures to protect any hedgerows and trees with provision for root protection areas and stand-offs and/or fencing, or details of any required removal works;
- (g) surface water drainage and containment measures;
- (h) temporary soil storage arrangements detailing how/where soils would first be stripped and stockpiled for the future reinstatement of the site (no such soils shall be permitted to leave the project site, unless otherwise approved);
- (i) outline proposals for the full reinstatement of the areas affected on completion of the development shall be provided, including timescales, soil reinstatement, details of any replanting or reseeded, and aftercare steps.

The development shall be carried out in accordance with the approved details. On completion of the construction operations hereby permitted the compound and storage sites, including all buildings, plant, equipment, fences, and hard surfaced areas, shall be removed from the site and the land reinstated to its previous condition in accordance with the final details and timescales which shall be submitted for the prior written approval of the CPA.

Reason: Details are required to be submitted prior to the commencement of the development in the interests of mitigating the effects of construction upon the local environment, local amenity and for reasons of highway safety.

Details requiring further approval

11. Within one month of commencement of the development the following details shall be submitted for the CPA's written approval:
- (a) The highway signage scheme;
 - (b) Lining/road markings;
 - (c) The location of traffic signals and any equipment cabins;
 - (d) The bridleway surface alongside Kirk Hill;
 - (e) Details of the Pegasus crossing and corrals;
 - (f) Details of fencing;
 - (g) Details of a dropped kerbs allowing pedestrians across the A6097 utilising the north-west traffic signal locations.

Within East Bridgford Conservation Area the details shall be tailored to have regard to the desire to preserve/enhance the historic character. Works shall thereafter take place in accordance with the approved details.

Reason: Details are required to be submitted prior to the commencement of the development in order to control details of the final highway infrastructure so to minimise potentially urbanising impacts to the village Conservation Area.

Drainage

12. The surface water drainage scheme shall be completed in accordance with the details on drawings 20949/HDG/KH001/SK/00001P03 and 20949/HDG/KH001/SK/00002 P03 (condition 3 above) and in accordance with the submitted Flood Risk Assessment (Aecom Feb 2022). Waters shall be discharged at no greater than 5 litres per second.

Reason: To provide appropriate surface water management which is sustainable and which does not increase the risk of flooding to the highway or property.

Landscaping and biodiversity

13. Notwithstanding the details shown within the submitted landscaping and vegetation clearance drawings (20249/ELS/KH007/00002 Rev D, 20249/ELS/KH007/00003 and 20249/ELS/KH007/00001 Rev A), no works or development shall take place until full and final details of the landscaping and planting scheme along with details of all vegetation clearance have been submitted to the CPA for its prior written approval. The scheme shall include:

- (a) full details of all trees, hedges and shrubs to be retained and the measures for their protection during the course of development such as providing root protection zones or stand offs within which no storage of materials or vehicle movements shall take place;
- (b) final details of all trees, shrubs, hedges and grassed areas to be removed;
- (c) information about the retention and reuse of existing turves or topsoil from the south west side of the existing junction.
- (d) planting and seeding proposals showing numbers, species, seed mixes, density of planting/seeding, positions and sizes of all trees and shrubs/hedging (utilising, where possible, native species appropriate to local landscape character) along with establishment methods including details of pits, staking and guards;
- (e) fencing and gates;
- (f) timetable for implementation of hard and soft landscape works;
- (g) a landscape management plan and schedule of maintenance for an initial establishment period of 5 years;

The landscaping shall be carried out in accordance with the approved details unless any variation is subsequently agreed in writing by the CPA.

If within a period of 5 years from the date of planting any tree, shrub, hedgerow or replacement is removed, uprooted, destroyed or dies then another of the same species and size of the original shall be planted at the same place.

Reason: Details are required to be submitted prior to the commencement of the development in the interests of biodiversity, landscape, and local amenity and to mitigate impacts to the Conservation Area.

14. Prior to commencement of development hereby permitted, a Biodiversity Gain Plan shall be submitted for the prior written approval of the CPA. The Plan shall be based on the

format of the working draft contained in Annex B of the Consultation on Biodiversity Net Gain Regulations and Implementation (Defra, January 2022), or subsequent published revisions, and shall include the production of a habitat management and monitoring plan, and which also ensures that Trading Rules are satisfied.

Thereafter the Biodiversity Gain Plan along with the habitat management and monitoring plan shall be implemented for a 30 year period commencing at a date to be agreed in writing by the CPA.

Reason: Details are required to be submitted prior to the commencement of the development in the interests of sustainable development and to ensure the landscaping proposals are maintained long-term such that the development enhances biodiversity.

NOTES TO APPLICANT

- 1. The development hereby permitted must be carried out in accordance with the conditions attached to this planning permission and any approved plans and details. Failure to implement the permission in accordance with the planning conditions and approved details may render the development unlawful and could lead to enforcement action and prosecution.**
- 2. If, at any stage, it becomes necessary to vary any of the approved plans or details you should contact the County Planning Authority in advance of implementing any changes to ascertain whether the proposed changes require any further planning approval.**
- 3. Where appropriate there is a fee payable, currently £116, where a written request is made for the discharge of one or more conditions on the same permission or for confirmation that condition(s) on a permission have been complied with. The fee is payable for each request and not for each condition. When submitting a fee, please provide the planning application reference number. Fees can be paid in several ways, either:**
 - using a debit/credit card by calling 0115 9932584;
 - by paying online at www.nottinghamshire.gov.uk/planning-and-environment/planning-applications/pay-a-planning-fee; or
 - by sending a cheque payable to 'Nottinghamshire County Council' to the Planning Support Officer, Development Management, Nottinghamshire County Council, County Hall, Loughborough Road, West Bridgford Nottingham, NG2 7QP. Please mark the envelope 'Private and Confidential'.
- 4. Where pre-commencement conditions may be specified in this decision notice, the justification as to why such conditions are imposed and need to be discharged prior to the commencement of development is stated in accordance with Article 35 of The Town and Country Planning (Development Management Procedure) (England) Order 2015.**
- 5. The Road Safety team in Via East Midlands strongly advises that Stage 2 and Stage 3 Road Safety Audits are carried out and that they are available to undertake this work.**

- 6. In relation to condition 13 the inclusion of year 15 photo-visualisations of the finalised landscape designs would be beneficial to demonstrate the expected maturing landscape appearance.**

Advice from Western Power Distribution:

- 7. Western Power Distribution advises it has Network within close proximity to this site. Please contact the WPD Mapping Team on wpdmidsmcqanrtheast@westernpower.co.uk to obtain records. There may be a charge levied for this service.**

Any excavations or works to be conducted within proximity to our apparatus attention must be paid to guidance documents HSG47 and GS6. Because Western Power Distribution has Network within this site; it is within the obligations of our Distribution License and that outlined within The Electricity Act 1989 section 9 (General Duties of Licence Holders) that as the Electrical Distributor we have a duty to maintain and develop an efficient, coordinated and economic system of electricity distribution and access must be granted for the 24hour period in the event of emergency.

We must emphasise that any alteration, building or ground works proposed in the vicinity of our network that may or may not directly affect our cables, must be notified in detail to Western Power Distribution.

For further information please call us on 0845 724 0240 or at Western Power Distribution, Harriman's Lane, Lenton Lane Industrial Estate, Nottingham, NG7 2NR

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